

AG Contract No. KR98 1457TRN
ADOT ECS File No. JPA 98-110
Projects: H3064 01R (ROW) \$10,000.
H4197 01C (Landscape/Irr.) \$110,000.
TRACS: H5218 01C (SR-89 Imp.) \$857,375.
Section: SR-89, Carlton - Marina

INTERGOVERNMENTAL AGREEMENT
BETWEEN
THE STATE OF ARIZONA
AND
THE CITY OF PRESCOTT

THIS AGREEMENT is entered into 22 January 1999,
pursuant to Arizona Revised Statutes, Sections 11-951 through 11-954,
as amended, between the STATE OF ARIZONA, acting by and through its
DEPARTMENT OF TRANSPORTATION (the "State") and the CITY OF PRESCOTT,
acting by and through its MAYOR and CITY COUNCIL (the "City")

I. RECITALS

1. The State is empowered by Arizona Revised Statutes Section 9-240 and 11-952 to enter into this agreement and has by ordinance, a copy of which is attached hereto and made a part hereof, resolved to enter into this agreement and has delegated to the undersigned the authority to execute this agreement on behalf of the State.

2. The City is empowered by Arizona Revised Statutes Section 48-572 to enter into this agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this agreement and has authorized the undersigned to execute this agreement on behalf of the City.

3. Incident to a highway improvement project on SR-89 from Carlton Street to Marina Street contemplated by the State in the City, including right-of-way acquisition, roadway improvements, curb, gutter and sidewalk improvements, and landscaping and irrigation improvements, the State and the City have agreed that upon completion of the project the State will abandon ownership jurisdiction and maintenance responsibility and transfer SR-89 from Carlton Street (MP 311.09) to Marina Street (MP 311.8) to the City.

THEREFORE, in consideration of the mutual agreements expressed herein, it is agreed as follows:

NO. 22931
Filed with the Secretary of State
Date Filed: 01/22/99

Petrey Bayless
Secretary of State

By Nicky V. Guenewald

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II. SCOPE

1. The City will:

a. Provide to State standards design plans, specifications and such other documents and services required for the SR-89 improvement project suitable for construction bidding and construction. Incorporate or resolve State review comments.

b. Upon filing of this agreement with the Secretary of State, invoice the State in the amount of \$857,375.00 for the cost of the SR-89 improvement project.

c. Call for bids and award one or more construction contracts for the project. Administer same and make all payments to the contractor. Be responsible for any contractor claims for extra compensation.

d. Upon completion, approve and accept the project improvements as complete.

e. Upon approval of and by ordinance of the City Council, accept ownership jurisdiction and maintenance responsibility for SR-89 from Carlton Street (MP 311.09) to Marina Street (MP 311.8).

f. Waive the requirements of Arizona Revised Statutes Section 28-7209 (formerly A.R.S. § 28-106).

2. The State will:

a. Review the design documents and provide comments.

b. Within 30 days after receipt and approval of an invoice, pay the City \$857,375 for the cost of the SR-89 improvement project.

c. Upon completion of the project improvements, and upon approval of and by resolution of the Transportation Board, abandon ownership jurisdiction and maintenance responsibility for SR-89 from Carlton Street (MP 311.09) to Marina Street (MP 311.8).

III. MISCELLANEOUS PROVISIONS

1. This agreement shall remain in force and effect until completion of said payment, improvements and abandonment; provided, however, that this agreement, except any provisions herein for maintenance, which shall be perpetual, may be cancelled at any time prior to the commencement of performance under this agreement, upon thirty (30) days written notice to the other party.

2. This agreement is subject to the approval of the City Council, in accordance with Article VII, Section 5 of the City Charter, and approval of the State Transportation Board, in accordance with A.R.S. § 28-304, and shall become effective upon filing with the Secretary of State.

3. The State will indemnify and hold harmless the City, its departments and divisions, and its employees from any and all claims, liabilities, expenses or losses as a result of allegations of improper design and construction of that portion of State Route 89 as identified in Exhibit A; provided, however, that this paragraph shall have no further force and effect after the filing of the first lawsuit alleging improper design and construction (this provision will apply to any judgment which might be reached in such first lawsuit), or if the design of that portion of the roadway has been changed, or if five years have lapsed from the date the city accepts the roadway, whichever occurs first.

4. This agreement may be cancelled in accordance with Arizona Revised Statutes Section 38-511.

5. The provisions of Arizona Revised Statutes Section 35-214 are applicable to this contract.

6. In the event of any controversy which may arise out of this agreement, the parties hereto agree to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes Section 12-1518.

7. All notices or demands upon any party to this agreement shall be in writing and shall be delivered in person or sent by mail addressed as follows:

Arizona Department of Transportation
Joint Project Administration
205 South 17 Avenue, Mail Drop 616E
Phoenix, AZ 85007

City of Prescott
City Manager
Box 2059
Prescott, AZ 86302

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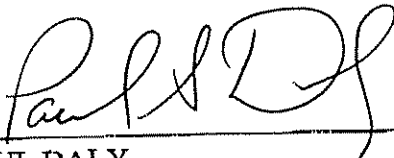
JPA 98-110

8. Attached hereto and incorporated herein is the written determination of each party's legal counsel that the parties are authorized under the laws of this state to enter into this agreement and that the agreement is in proper form.

IN WITNESS WHEREOF, the parties have executed this agreement the day and year first above written.

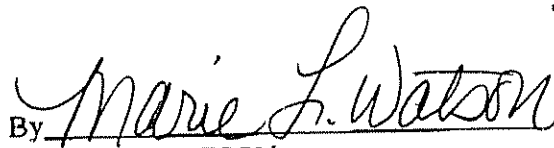
CITY OF PRESCOTT

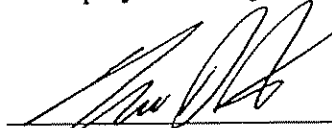
STATE OF ARIZONA
Department of Transportation

By 
PAUL DALY
Mayor

By 
EDWARD D. WRIGHT
Deputy State Engineer

ATTEST

By 
MARIE WATSON
City Clerk

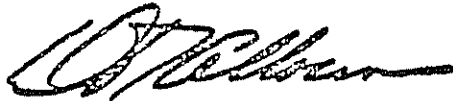

THOMAS D. FOSTER
Prescott District Engineer

98-110.doc
December 1, 1998

RESOLUTION

BE IT RESOLVED on this 9th day of July 1998, that I, the undersigned MARY E. PETERS, as Director of the Arizona Department of Transportation, have determined that it is in the best interests of the State of Arizona that the Department of Transportation, acting by and through the Intermodal Transportation Division, to enter into an agreement with the City of Prescott for the purpose of defining responsibilities for the design, construction and maintenance of improvements to SR-89 from Carlotn - Marina and the abandonment of same to the City.

Therefore, authorization is hereby granted to draft said agreement which, upon completion, shall be submitted to the Deputy State Engineer for approval and execution.

A handwritten signature in black ink, appearing to read 'D. Allocco', written over a horizontal line.

DAVID ALLOCCO, Manager
Engineering Technical Group
for Mary E. Peters, Director

RESOLUTION NO. 3125

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF PRESCOTT, YAVAPAI COUNTY, ARIZONA, AUTHORIZING THE CITY OF PRESCOTT TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE ARIZONA DEPARTMENT OF TRANSPORTATION FOR THE ACQUISITION BY THE CITY OF A PORTION OF STATE ROUTE 89 FROM MILEPOST 311.09 TO 311.8, AND AUTHORIZING THE MAYOR AND STAFF TO TAKE ANY AND ALL STEPS NECESSARY TO ACCOMPLISH THE ABOVE.

WHEREAS, the Arizona Department of Transportation wishes to convey to the City of Prescott a portion of State Route 89; and

WHEREAS, the City of Prescott is desirous of obtaining ownership of a certain portion of State Route 89 which is located in the downtown Prescott area; and

WHEREAS, the parties wish to enter into an Intergovernmental Agreement to provide for certain terms and conditions relative to the conveyance to the City of Prescott of a portion of State Route 89.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF PRESCOTT, AS FOLLOWS:

SECTION 1. THAT, the City of Prescott hereby approves the Intergovernmental Agreement with the Arizona Department of Transportation to convey a portion of State Route 89 to the City of Prescott, attached hereto as Exhibit "A".

SECTION 2. THAT, the Mayor and Staff are hereby authorized to execute the attached Intergovernmental Agreement and to take any and all steps deemed necessary to accomplish the above.

PASSED, APPROVED AND ADOPTED by the Mayor and Council of the City of Prescott, Arizona, this 8th day of DECEMBER, 1998



PAUL S. DALY, Mayor

ATTEST:



MARIE L. WATSON, City Clerk

APPROVED AS TO FORM:

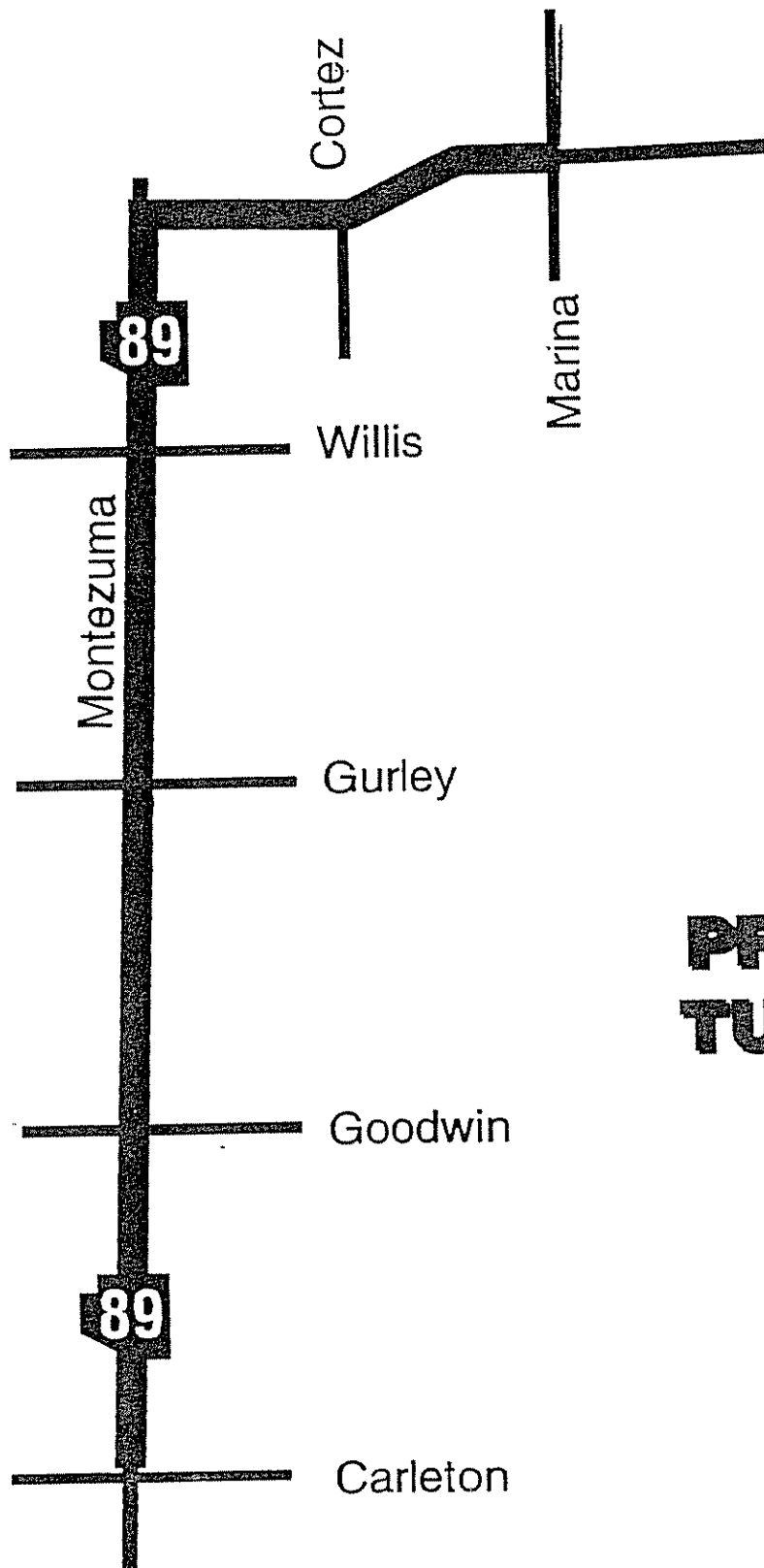


JOHN R. MOFFITT, City Attorney

Pursuant to A.R.S. Section 11-952(D), the foregoing agreement has been reviewed by the undersigned attorney for the City of Prescott, who has determined that the agreement is in proper form and is within the powers and authority granted under the laws of this State to the City of Prescott.

A handwritten signature in black ink, appearing to read 'JRM', is positioned above the printed name and title.

JOHN R MOFFITT
City Attorney

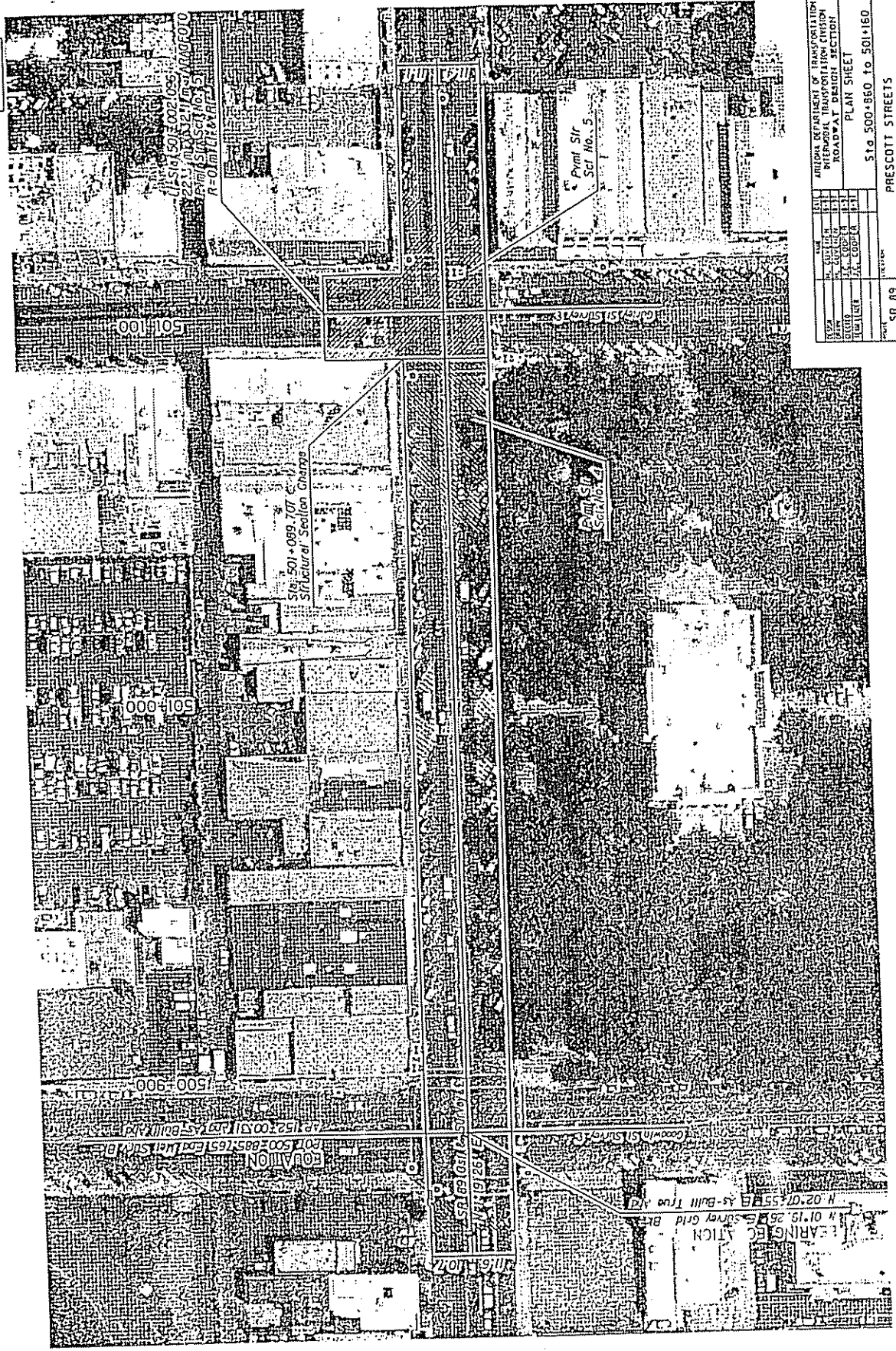


89
PROPOSED
TURNBACK
#1



SECTION	DATE	BY	ARIZONA DEPARTMENT OF TRANSPORTATION INTERMODAL TRANSPORTATION DIVISION ROADWAY DESIGN SECTION
DESIGN	12-1-78	W. C. GUNTER	PLAN SHEET Sta. 500+560 to 500+860
CONSTRUCTION	8-24-78	W. C. GUNTER	
AS BUILT	8-24-78	W. C. GUNTER	
REVISION			
PROJECT			PRESCOTT STREETS
SHEET NO.			SHEET OF
SR 89			025-11201P

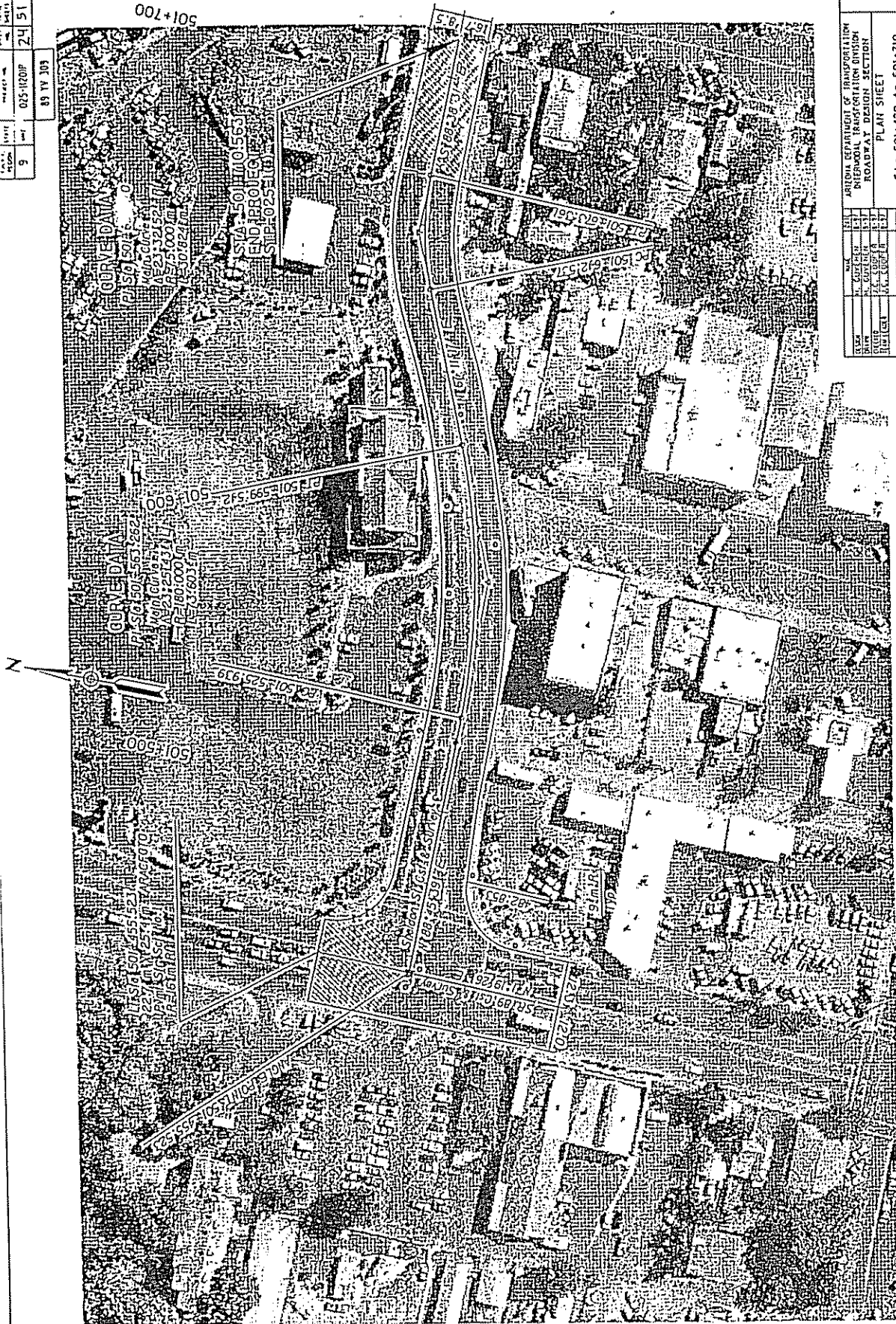
DATE	9	PROJECT NO.	025-11201P	SHEET	22	OF	51
				88 TV 109			



ARIZONA DEPARTMENT OF TRANSPORTATION	
METROPOLITAN TRANSPORTATION DIVISION	
ROADWAY DESIGN SECTION	
PLAN SHEET	
ST 500+850 to 501+160	
PRESCOTT STREETS	
SR 89	025-11201P
TRACS NO. H4042 01 C	
SHEET OF	

SR 89	PRESCOTT STREETS	075-11201P	OF
ARIZONA DEPARTMENT OF TRANSPORTATION METROPOLITAN TRANSPORTATION DIVISION ROADWAY DESIGN SECTION PLAN SHEET Sd 501.160 to 501.420	SHEET OF		
DATE: 11/1/88 DRAWN BY: J. L. COOPER CHECKED BY: J. L. COOPER IN CHARGE: J. L. COOPER	DATE: 11/1/88 DRAWN BY: J. L. COOPER CHECKED BY: J. L. COOPER IN CHARGE: J. L. COOPER		

DATE	BY	DATE	BY
9	025-1120IP	24	51
89 TY 103			



ARIZONA DEPARTMENT OF TRANSPORTATION	
INTERMODAL TRANSPORTATION DIVISION	
ROADWAY DESIGN SECTION	
PLAN SHEET	
Sta 501+420 to 501+710	
PRESCOTT STREETS	
SR 89	OF
TRACS NO. H4042 01 C	
025-1120IP	



GRANT WOODS
ATTORNEY GENERAL

STATE OF ARIZONA
OFFICE OF THE ATTORNEY GENERAL
1275 WEST WASHINGTON, PHOENIX 85007-2997

TRN Main: (602) 542-1680
Direct: (602) 542-8837
Fax: (602) 542-3646
MAIN PHONE : 542-5025
TELECOPIER : 542-4085


INTERGOVERNMENTAL AGREEMENT
DETERMINATION

A.G. Contract No. KR98-1457TRN, an agreement between public agencies, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining parties, other than the State or its agencies, to enter into said agreement.

DATE January 13, 1999.

GRANT WOODS
Attorney General


JAMES R. REDPATH
Assistant Attorney General
Transportation Section

JRR:et/18182

Enc.